

ADVISORY OPINION 94-008

Any advisory opinion rendered by the registry under subsection (1) or (2) of this section may be relied upon only by the person or committee involved in the specific transaction or activity with respect to which the advisory opinion is required. KRS 121.135(4).

June 22, 1994

Ms. Judy K. Winkel
Concerned Associates Employees PAC
P.O. Box 660237
Dallas, Texas 75266-0237

Dear Ms. Winkel:

Thank you for contacting the Registry. Based on your letter and the additional facts provided by your assistant, Mr. Keith Jones, the facts to your request can be stated as follows:

You are the treasurer for CAE, an out-of-state federally registered permanent committee ("PAC"). Your PAC intends to contribute in Kentucky from time to time and, in 1994, it intends to contribute a total of \$3,000 to Kentucky candidates and PACs.

You have asked five (5) questions, and these questions are quoted as follows:

1. Would the \$1,500 limitation on individual contributions in KRS 121.150(10) apply to CAE as a federally registered out-of-state permanent committee?
2. Would CAE as a federally registered out-of-state permanent committee be required to pay the \$200.00 registration fee and the \$200.00 annual administrative fee to the Registry?
3. Would CAE as a federally registered out-of-state permanent committee be required to pay the 5% of expenditures administrative fee? If yes, then would this fee be assessed against all of CAE's expenditures or just those made in Kentucky?
4. Which reporting requirements would apply to CAE as a federally registered out-of-state permanent committee?
5. Would CAE as a federally registered out-of-state permanent committee be required to maintain its separate segregated depository in a financial institution authorized to transact business in Kentucky?

At the heart of your questions is the determination by the General Assembly that out-of-state, federally registered PACs are treated differently than Kentucky registered PACs. See KRS 121.170(3), (5), (6), (7). If the General Assembly had not intended that out-of-state federally registered PACs be regulated differently, it would not have created a special category for federally registered out-of-state permanent committees. Therefore, the answers to your questions are as follows:

1. Since your PAC, CAE, is a federally registered out-of-state permanent committee, the \$1,500 limit set forth in KRS 121.150(10) would not apply to contributions received by your PAC. However, please note that your PAC would indeed be limited to the maximum contribution limits set forth in KRS 121.150 and its subsections. Also, the Registry considers your PAC a

"person;" therefore, CAE would be limited as a "person" under KRS 121.150 and its subsections. See KRS 446.010(26) (construing a PAC or a body politic on a "person").

2. As a federally registered out-of-state permanent committee, CAE is not required to pay the \$200.00 registration fee set forth in KRS 121.170(5).
3. As a federally registered out-of-state permanent committee, CAE is not required to pay the 5% of expenditures administrative fee set forth in KRS 121.180(6)(b).
4. As a federally registered out-of-state permanent committee, CAE is required to file copies of its federal reporting forms when it makes a Kentucky contribution. Further, CAE should file these duplicate reports in accordance with the federal reporting date requirements.
5. As a federally registered out-of-state permanent committee, CAE is not required to maintain its separate segregated depository in a Kentucky banking corporation. As a federally registered out-of-state PAC, CAE needs to comply with 2 U.S.C. § 441b and its interpretive regulations. See KRS 121.170(7). KRS 121.220(1) notwithstanding, KRS 121.170(7) requires specific and special treatment for federally registered out-of-state PACs. Therefore, the Registry does not agree with your assertion that KRS 121.220(1) does not address depositories in relation to permanent committees. KRS 121.220(1) simply applies to Kentucky registered PACs. See KRS 121.170(3).

This opinion is based upon the course of action outlined in your letter. If you should have any more questions, please give us a call. Thank you.

Sincerely,

Timothy E. Shull
General Counsel

TES/db